

SECTION 32 REPORT

Activities on the Surface of Water

May 2022

Table of Contents

1	Executive Summary	1
2	Introduction and Purpose	2
2.1	Purpose of report	2
2.2	Overview of topic.....	2
3	Statutory and Policy Context	3
3.1	Resource Management Act 1991	3
3.2	Higher order planning instruments	4
3.2.1	National Planning Standards.....	4
3.2.2	National Policy Statements.....	4
3.2.3	National Environmental Standards.....	4
3.2.4	Regional Policy Statement for Northland	5
3.3	Regional Plan for Northland	5
3.4	Iwi and Hapū Environmental Management Plans	6
3.5	Other Legislation and Policy Documents	6
4	Current State and Resource Management Issues	7
4.1	Context	7
4.2	Operative District Plan Approach	7
4.2.1	Summary of current management approach	7
4.2.2	Limitation with current approach.....	8
4.3	Key issues identified through consultation.....	9
4.3.1	Summary of issue raised through consultation	9
4.3.2	Summary of advice from iwi authorities.....	9
4.4	Summary of Resource Management Issues.....	9
5	Proposed District Plan Provisions	10
5.1	Strategic Objectives	10
5.2	Proposed Management Approach.....	10
5.3	Summary of proposed objective and provisions	10
5.3.1	Summary of objective.....	10
5.3.2	Summary of provisions	11

5.3.3	Responding to advice from iwi authorities.....	11
6	Approach to Evaluation	12
6.1	Introduction.....	12
6.2	Evaluation of scale and significance	12
6.3	Summary of scale and significance assessment	14
7	Evaluation of Objectives	15
7.1	Evaluation of existing objectives	15
7.2	Evaluation of proposed objectives	16
8	Evaluation of Provisions to Achieve the Objectives	17
8.1	Introduction.....	17
8.2	Quantification of benefits and costs.....	17
8.3	Evaluation of options.....	18
8.3.1	Option 1: Status quo.....	18
8.3.2	Option 2: Activities on the Surface of Water chapter – Proposed approach	19
8.3.3	Option 3: Activities on the Surface of Water chapter – Stronger regulatory approach	20
9	Summary	22

1 Executive Summary

The District has many rivers and lakes. The health of these water bodies is vital to sustaining all kinds of life. Human activity, however, can lead to the degradation of these freshwater bodies and their associated ecological, recreation, natural character, amenity and cultural values. Under the Operative District Plan (**ODP**), rivers and lakes are currently controlled under Chapter 12 'Natural and Physical Resources'.

The ODP provides for the use of the surface of lakes and rivers to the extent that it is compatible with the maintenance of the life supporting capacity of the water body, water quality, aquatic habitats, and the protection of natural character, amenity, cultural heritage, landscape and spiritual values.

The proposed management approach in the Proposed Far North District Plan (**PDP**) for the 'Activities on the Surface of Water' chapter includes provisions as follows:

- Objectives and policies to enable activities on the surface of water, where it will not result in adverse effects on ecological, recreation, natural character, amenity and cultural values.
- Permitted activity rules that enable the non-commercial recreational use or customary use of rivers and lakes in a way which ensures the associated values of the freshwater bodies are protected and enhanced.
- Provides for the use of motorised craft for non-commercial recreational use on the majority of the District's rivers and lakes while protecting those of noted value.
- Permitted activity rules that enable search and rescue, scientific investigations, noxious flora and fauna control, maintenance of the habitat of indigenous fauna, or monitoring; and irrigation network maintenance on Waingaro and Manuwai Reservoirs.
- Provisions to manage structures, commercial activities and residential activities on the surface of water.
- Where compliance cannot be achieved with the permitted activity rules or standards, resource consent is required as a discretionary activity. Any activity not provided for defaults to a non-complying activity status.

The main changes to the overall proposed management approach from the ODP include:

- A dedicated chapter for provisions pertaining to activities on the surface of water.
- Changes in language used and additional provisions to create a stronger policy direction for activities on the surface of water and to give effect to higher order planning documents.
- Provisions that align with the 'hybrid approach' of the PDP that focuses more on activity-based rules compared to the effects-based approach in the ODP.
- New provisions which apply discretionary activity status to structures, commercial activities and residential activities on the surface of water.

2 Introduction and Purpose

2.1 Purpose of report

This report provides a summary of the evaluation undertaken by the Far North District Council (**Council**) in preparation of district plan provisions for the 'Activities on the Surface of Water' chapter in the PDP. This assessment is required under section 32 of the Resource Management Act 1991 (**RMA**).

Section 32 of the RMA requires Councils to examine whether the proposed objectives are the most appropriate to achieve the purpose of the RMA and whether the provisions (i.e. policies, rules and standards) are the most appropriate way to achieve the objectives. This assessment must identify and assess environmental, economic, social, and cultural effects, benefits and costs anticipated from the implementation of the provisions. Section 32 evaluations represent an on-going process in RMA plan development and a further evaluation under section 32AA of the RMA is expected throughout the review process in response to submissions received following notification of the PDP.

This report sets out the issues for the 'Activities on the Surface of Water' chapter, and it provides an overview of the statutory and policy context, and any specific consultation. The report also includes a review of the ODP and evaluation of alternatives to determine the most appropriate way(s) to achieve the purpose of the RMA in relation to activities on the surface of water.

2.2 Overview of topic

The Far North District (**District**) has many rivers and lakes which are valued for their important ecological, recreation, natural character, amenity and cultural values. A wide range of activities occur on the surface of these water bodies. This includes activities that have a functional need to locate on water surfaces such as jetties and piers, recreation activities such as fishing and boating, and customary activities undertaken by tangata whenua.

Activities occurring on the surface of water can have potential adverse effects on the ecological values of the waterbody particularly during fish spawning and bird breeding seasons, natural character and recreational values, and on the associated cultural values. The purpose of the chapter is to therefore to manage the actual or potential effects of activities on the surface of water, including motorised and non-motorised craft on rivers and lakes for various purposes, residential activities such as houseboats and the construction of structures.

Lakes, rivers, wetlands and the coastline are managed together in Chapter 12 'Natural and Physical Resources' of the ODP. As part of a consolidated review of the ODP, provisions pertaining to activities on the surface of water have been incorporated into the PDP in a standalone chapter in accordance with the National Planning Standards (**Planning Standards**).

The Northland Regional Council (**NRC**) and Council jointly share responsibility for the control of the District's waterbodies. While NRC is responsible for the control of the use of land and water for the maintenance and enhancement of water quality, water quantity and the ecosystems of the region's freshwater bodies, the Council has primary responsibility managing activities occurring on and adjacent to freshwater bodies.

3 Statutory and Policy Context

3.1 Resource Management Act 1991

The **Section 32 Overview Report** for the PDP provides a summary of the relevant statutory requirements in the RMA relevant to the PDP. This section provides a summary of the matters in Part 2 of the RMA (purpose and principles) of direct relevance to this topic.

Section 74(1) of the RMA states that district plans must be prepared in accordance with the provisions of Part 2. The purpose of the RMA is the sustainable management of natural and physical resources which is defined in section 5(2) of the RMA as:

“...sustainable management means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety while –

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

To achieve the purpose of the RMA, all those exercising functions and powers under the RMA are required to:

- Recognise and provide for the matters of national importance identified in section 6.
- Have particular regard to a range of other matters in section 7.
- Take into account the principles of the Treaty of Waitangi in section 8 of the RMA.

The following section 6 matters are directly relevant to the ‘Activities on the Surface of Water’ chapter:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;*
- (e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*

Section 6(a) is of primary relevance and specifically identifies the need to preserve the natural character of wetlands, lakes and river margins and protect them from inappropriate subdivision, use and development. Section 6(e) also identifies the importance of the relationship Māori and their cultural traditions have with water.

The following section 7 matters are directly relevant to the ‘Activities on the Surface of Water’ chapter:

- (a) Kaitiakitanga;*
- (b) The efficient use and development of natural and physical resources;*
- (c) The maintenance and enhancement of amenity values;*
- (d) Intrinsic values of ecosystems;*
- (f) Maintenance and enhancement of the quality of the environment.*

Section 8 of the RMA requires that all persons exercising functions and powers under it take into account the principles of the Treaty of Waitangi, which have been considered in the preparation of the ‘Activities on the Surface of Water’ chapter.

3.2 Higher order planning instruments

Section 75(3) of the RMA requires district plans to give effect to higher order planning instruments – National Policy Statements (**NPS**), the National Planning Standards (**Planning Standards**), and the relevant Regional Policy Statement (**RPS**). The **Section 32 Overview Report** provides a more detailed summary of the relevant RMA higher order planning instruments relevant to the PDP. The sections below provide an overview of provisions in higher order planning instruments directly relevant to the ‘Activities on the Surface of Water’ chapter.

3.2.1 National Planning Standards

Section 75(3)(ba) of the RMA requires that district plans give effect to the Planning Standards. The Planning Standards were gazetted in April 2019 and their purpose is to assist in achieving the purpose of the RMA and improve consistency in the structure, format and content of RMA plans. The following standards and directions in the Planning Standards are of direct relevance to the ‘Activities on the Surface of Water’ chapter:

- In accordance with Mandatory Direction 7.27, if provisions for managing activities on the surface of water are addressed, they must be located in the ‘Activities on the Surface of Water’ chapter.
- In accordance with Mandatory Direction 7.33, if provisions for managing noise are addressed, they must be located in the ‘Noise’ chapter.

3.2.2 National Policy Statements

Section 75(3)(a) of the RMA requires that district plans give effect to any NPS. The National Policy Statement for Freshwater Management (**NPSFM**) seeks to ensure that natural and physical resources are managed in a way that prioritises:

- (a) first, the health and well-being of water bodies and freshwater ecosystems;
- (b) second, the health needs of people (such as drinking water);
- (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

The implementation of the NPSFM and managing freshwater to give effect to Te Mana o Te Wai is primarily the responsibility of NRC, however section 3.5(4) requires that every territorial authority includes objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments. These matters are relevant to activities on the surface of water, as they can have adverse effects on the health and well-being of waterbodies.

The NRC has the majority of the obligations under the NPSFM. The NRC is responsible for the control of the use of land and water for the maintenance and enhancement of water quality, quantity and the ecosystems of the region’s freshwater bodies. Council has primary responsibility for managing activities occurring on and adjacent to freshwater bodies.

The NRC has not yet amended the RPS to give effect to the NPSFM.

3.2.3 National Environmental Standards

Section 44 of the RMA requires local authorities to recognise National Environmental Standards (**NES**) by ensuring plan rules do not conflict with or duplicate the provisions in a NES. The National Environmental Standard for Freshwater (**NESF**) states in Regulation 5 that the regulations in the Standard do not deal with the functions of territorial authorities under section 31 of the RMA. As such there are no national environmental standards considered directly relevant to the consideration of the proposed ‘Activities on the Surface of Water’ chapter.

3.2.4 Regional Policy Statement for Northland

Section 75(3)(c) of the RMA requires district plans to ‘give effect’ to any RPS. The RPS was made operative on 14 June 2018. The table below outlines the provisions in the RPS that are directly relevant to the ‘Activities on the Surface of Water’ chapter.

RPS	
Objective 3.5	Enabling economic wellbeing
Objective 3.10	Use and allocation of common resources
Objective 3.13	Natural hazard risk
Objective 3.14	Natural character, outstanding natural features, outstanding natural landscapes and historic heritage
Objective 3.15	Active Management
Policy 4.4.1	Maintaining and protecting significant ecological areas and habitats
Policy 4.6.1	Managing effects on the characteristics and qualities of natural character, natural features and landscapes

The RPS covers the management of natural and physical resources across the Northland Region. The provisions within the RPS give guidance at a higher planning level in terms of the significant regional issues.

In summary, in relation to activities on the surface of water, the RPS directs that District Councils:

- Implement provisions that ensure the characteristics and qualities of rivers and lakes are managed to ensure their protection for future generations, in doing so contributing to:
 - The water quality of the receiving waterbodies; and
 - The maintenance and/or improvement of the ecological, natural character and cultural values associated with freshwater bodies.
- Enable all people and communities to use freshwater resources to provide for their social, economic and cultural wellbeing in a way which does not result in adverse effects on the waterbodies or increase the risk of natural hazards.

Overall, the PDP approach gives effect to the relevant objectives and policies of the RPS through provisions which seek to enable the use of the District’s freshwater bodies in a way which ensures the associated values are protected and enhanced for future generations.

3.3 Regional Plan for Northland

Section 75(4)(b) of the RMA states that any district plan must not be inconsistent with a regional plan for any matter stated in section 30(1) of the RMA. The operative Northland Regional Plans and proposed Northland Regional Plan are summarised in the **Section 32 Overview Report**. The table below provides an overview of regional plan provisions directly relevant to the ‘Activities on the Surface of Water’ chapter.

Proposed Regional Plan	
Objective F.1.5	Enabling economic well-being
Objective F.1.10	Natural hazard risk
Objective F.1.12	Natural character, outstanding natural features, historic heritage and places of significance to tangata whenua
Policy D.2.1	Rules for managing natural and physical resources

Policy D.2.2	Social, cultural and economic benefits of activities
Policy D.2.17	Managing adverse effects on natural character, outstanding natural landscapes and outstanding natural features
Policy D.2.19	Managing adverse effects on land-based values and infrastructure
Policy D.4.30	Rivers

The Proposed Regional Plan combines the operative Regional Plans (coastal, air quality, water and soil) into one plan. The relevant objectives and policies have been taken into consideration in the drafting of the 'Activities on the Surface of Water' chapter.

3.4 Iwi and Hapū Environmental Management Plans

When preparing and changing district plans, section 74(2A) of the RMA requires Council to take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the District. At present there are 14 iwi planning documents accepted by Council which are set out and summarised in the **Section 32 Overview Report**.

The key issues in these plans that have been taken into account in the preparation of the 'Activities on the Surface of Water' chapter are as follows:

- The restoration of riparian margins and ecosystem capacity;
- The protection of ancestral association with waterways;
- The limited direct involvement of tangata whenua in decision-making surrounding water resources.

Water is a sacred resource and is of particular importance to tangata whenua who continue to utilise the resource for collecting mahinga kai, transportation, gathering materials and engaging in cultural practices. The degradation of the District's freshwater bodies can therefore greatly impact tangata whenua's relationship with water and their ability to carry out the above practices.

The policy framework within the 'Activities on the Surface of Water' chapter supports the ongoing need to recognise tangata whenua's relationship with rivers and lakes. In doing so, the chapter provides for activities on the surface of water where they will not result in adverse effects on the cultural and spiritual values associated with the waterbody. In supporting the framework, the chapter permits customary activities while requiring resource consent for structures, commercial activities and residential activities on the surface of water. This ensures the District's rivers and lakes are protected and enhanced.

3.5 Other Legislation and Policy Documents

When preparing or changing a district plan, section 74(2)(b)(i) of the RMA requires Council to have regard to management plans and strategies prepared under other Acts to the extent that it has a bearing on resource management issues of the District. The **Section 32 Overview Report** provides a more detailed overview of strategies and plans prepared under legislation that are relevant to the PDP. The Council has taken into consideration Council's Parks and Reserves Policy (2017) when preparing the 'Activities on the Surface of Water' chapter. This policy guides both the Council and public on decision making matters relating to the control and management of parks and reserves, and ensures that the cultural, social and physical wellbeing of the District's residents is addressed. The policy applies to all parks and reserves that are owned by the Council. Rivers and lakes that are within Council reserves are subject to this policy.

4 Current State and Resource Management Issues

This section provides an overview of the relevant context for the current approach to manage activities on the surface of water through the ODP, and key issues raised through consultation. It concludes with a summary of the key resource management issues for activities on the surface of water to be addressed through the PDP.

4.1 Context

The District has many rivers, lakes and streams which are valued for their important ecological, recreation, natural character, amenity and cultural values. A wide range of activities occur on the surface of these water bodies. This includes activities that have a functional need to locate on water surfaces such as jetties and piers, recreation activities such as fishing and boating, and customary activities undertaken by tangata whenua.

Activities occurring on the surface of water can have potential adverse effects on the ecological values of the waterbody particularly during fish spawning and bird breeding seasons, natural character and recreational values, and on the associated cultural values. The purpose of the chapter is to therefore manage the actual or potential effects of activities on the surface of water including motorised and non-motorised craft on rivers, lakes and streams for various purposes, and the construction of buildings and structures.

In the context of lakes, rivers, wetlands and the coastline the ODP chapter seeks to:

- Protect the amenity and spiritual values associated with the margins of lakes, rivers and indigenous wetlands from the adverse effects of subdivision, use and development;
- Secure public access to and along the coastal marine area, lakes and rivers and provide for Māori access to places of special value;
- Protect areas of indigenous riparian vegetation and enhance and restore riparian margins;
- Provide for the use of the surface of lakes and rivers that is compatible with the maintenance of the life supporting capacity of the water body and the protection of associated values.

4.2 Operative District Plan Approach

4.2.1 Summary of current management approach

Control of wetlands, lakes, rivers and the coastline are contained within Chapter 12 'Natural and Physical Resources' of the ODP. This chapter not only addresses activities on the surface of water but also includes provisions for the coastline, public access and natural character. The provisions of the ODP chapter generally seek to preserve, enhance and restore the natural character values of the waterbodies through controlling the location of land use activities.

The following summarises the current management approach:

- The relevant objectives, policies and provisions for activities on the surface of water are contained within Chapter 12 'Natural and Physical Resources' of Part 3 – District wide provisions of the ODP.
- The chapter relies on the consideration of Part 2 – Environmental Provisions and other chapters within Part 3 – District Wide Provisions.
- The objectives seek to:
 - Provide for the use of the surface of lakes and rivers to the extent that this is compatible with the maintenance of the life supporting capacity of the water body, water quality, aquatic habitats, and the protection of natural character, amenity, cultural heritage, landscape and spiritual values (Objective 12.7.3.4).
 - Avoid the adverse effects from inappropriate use and development of the margins of lakes, rivers, indigenous wetlands and the coastline (Objective 12.7.3.5).

- The policies seek to ensure that:
 - The effects of activities which will be generated by new structures on or adjacent to the surface of lakes, rivers and coastal margins be taken into account when assessing applications (Policy 12.7.4.1);
 - Adverse effects of activities on the surface of lakes and rivers in respect of noise, visual amenity of the water body, life supporting capacity of aquatic habitats, onshore activities, the natural character of the water body or surrounding area, water quality and Māori cultural values are avoided, remedied or mitigated (Policy 12.7.4.4);
 - Activities which have a functional relationship with waterbodies or the coastal marine area be provided for (Policy 12.7.4.5).
- All activities on the surface of water are permitted subject to compliance with the noise control standard for activities on the surface of lakes and rivers (Rule 12.7.6.1.6) and the motorised craft standard (Rule 12.7.6.1.5).
- Motorised craft activities are permitted for scientific or safety purposes on all lakes and rivers in the District aside from those waterbodies explicitly listed (Rule 12.7.6.1.5) as follows:
 - Lake Ngatu (excluding the part of the lake set aside for recreational power boat use)
 - Lake Owhareiti
 - Lake Heather
 - Lake Rotorua
 - Far North Dune Lakes
 - Waitangi River (above Haruru Falls)
 - Waingaro Reservoir
 - Manuwai Reservoir.
- The use of motorised craft for other purposes is a discretionary activity.

4.2.2 Limitation with current approach

The Council has reviewed the current ODP approach, which has been informed by technical advice, internal workshops and feedback from the community and stakeholder feedback.

Very few limitations with the current ODP approach have been identified through this process. Those that have been identified include:

- The ODP groups a number of topics into one chapter addressing the natural character of wetlands, lakes and river margins as well as provisions for the coastline, public access and activities on the surface of water. As such, it does not align with the Planning Standards.
- The provisions could be expressed more clearly and concisely to be more 'enabling', clarify the intent, and aid with plan interpretation.
- The provisions could better recognise tangata whenua's relationship with fresh waterbodies.
- Risk that new structures, commercial activities and residential activities (e.g. houseboats) could establish as permitted activities without the need for a resource consent and associated effects on the values of waterbodies.

In addition, the ODP policy framework is somewhat consistent with the RPS in managing activities on the surface of water. The objectives and policies as outlined in Section 4.2.1 adopt similar wording as used in the RPS such as 'avoided, remedied or mitigated' and 'maintenance'. The ODP also addresses matters directed by the RPS such as allowing for activities which provide for community wellbeing but in a way which does not compromise the natural character or qualities of freshwater bodies. The ODP approach however does not explain the associated values of waterbodies that need to be protected, or the types of activities that may be considered appropriate or inappropriate on the surface of water.

4.3 Key issues identified through consultation

The **Section 32 Overview Report** provides a detailed overview of the consultation and engagement Council has undertaken with tangata whenua, stakeholders and communities throughout the District to inform the development of the PDP and the key issues identified through this consultation and engagement. This section provides an overview of key issues raised through consultation in relation to the 'Activities on the Surface of Water' chapter and a summary of advice received from iwi authorities.

4.3.1 Summary of issue raised through consultation

There was a low level of interest in the 'Activities on the Surface of Water' chapter from the community through consultation and engagement of the PDP. The only feedback received was from the New Zealand Defence Force that requested that the rules be amended to better provide for defence purposes. This includes permitting all temporary structures and motorised craft associated with temporary military training activities undertaken on or adjacent to waterbodies. In addition, it was also requested that 'recreational' be removed to provide for all non-commercial uses of the District's rivers and lakes. In response, without the benefit of detailed information on the types of defence activities that may occur on the surface of water in the District, Council has reservations that these activities on the surface of water may generate adverse effects on ecological, natural character or cultural values. Council notes that temporary military training activities on land are permitted under the 'Temporary activities' chapter.

4.3.2 Summary of advice from iwi authorities

Section 32(4A)(a) of the RMA requires that evaluation reports include a summary of advice on a proposed plan received from iwi authorities. The **Section 32 Overview Report** provides an overview of the process to engage with tangata whenua and iwi authorities in the development of the PDP and key issues raised through that process.

Iwi feedback on the chapter is summarised as follows:

- Te Runanga O Ngāti Rēhia supported the 'Activities on the Surface of Water' chapter.
- Te Runanga O Te Rarawa:
 - Suggested that the objectives should explicitly take into account Te Mana o Te Wai (as set out in NPSFM), and consequential amendments to policies and rules.
 - Supported Policy ASW-P3 which recognises customary activities on the surface of water, and request that it is implemented through recognition of iwi/hapū management plans and appropriate rules.

Section 3.4 above provided a summary of the key concerns and issues raised in hapū and iwi environmental management plans.

Section 5 of this report outlines how the proposed management approach responds to this advice in accordance with section 32(4A)(b) of the RMA.

4.4 Summary of Resource Management Issues

The topic itself has not been identified as a Significant Resource Management Issue (**SRMI**) in the development of the PDP. Based on the analysis of relevant context, current management approach, and feedback from consultation, the key resource management issue for this topic to be addressed through the PDP is:

Activities on the surface of freshwater bodies can adversely affect the values of water bodies (e.g. ecological, recreational, natural character and cultural values). These activities need to be managed to ensure these values are protected or enhanced for future generations.

The proposed provisions are set out in the 'Activities on the Surface of water' chapter of the PDP. These provisions should be referred to in conjunction with this evaluation report.

5 Proposed District Plan Provisions

5.1 Strategic Objectives

The PDP includes a strategic direction section which is intended to provide high level direction for the PDP and guidance on how best to implement the Council's community outcomes set out in Far North 2100 and its Long-Term Plan. The strategic objectives of direct relevance to the 'Activities on the Surface of Water' chapter are:

Cultural prosperity:

- **Objective 1:** Te Tiriti o Waitangi partnerships support iwi and hapū to deliver on the social, economic, environmental and cultural wellbeing outcomes for tangata whenua.

Social prosperity:

- **Objective 3:** Encourage opportunities for fulfilment of our cultural, spiritual, environmental, and economic wellbeing.

Environmental prosperity:

- **Objective 3:** Active management of ecosystems to protect, maintain and increase indigenous biodiversity for future generations.

5.2 Proposed Management Approach

This section provides a summary of the proposed management approach for the 'Activities on the surface of water' chapter focusing on the key changes from the ODP. The **Section 32 Overview Report** outlines and evaluates general differences between the PDP provisions and ODP, including moving from an effects-based plan to a 'hybrid plan' that includes effects and activities-based planning, and an updated plan format and structure to align with the Planning Standards.

The main changes in the overall proposed management approach in relation to the topic are:

- Unpacking the ODP chapter in terms of what it is controlling by creating a separate chapter for addressing activities on the surface of rivers and lakes.
- A clearer and stronger policy direction that gives effect to the higher order statutory documents.
- Noise generated from activities on the surface of water is now controlled under a separate chapter.
- New provisions controlling structures, commercial activities and residential activities over the surface of water.

The sections below provide a high-level summary of the objectives, policies, and rules and other methods for the 'Activities on the Surface of Water' chapter.

5.3 Summary of proposed objective and provisions

This section provides a summary of the proposed objective and provisions which are the focus of the section 32 evaluation in section 7 and 8 of this report.

5.3.1 Summary of objective

The proposed management approach for the 'Activities on the Surface of Water' chapter includes an objective (ASW-O1) that seeks to ensure the protection and enhancement of the ecological, recreation, natural character, amenity and cultural values of the District's rivers and lakes for current and future generations.

5.3.2 Summary of provisions

For the purposes of section 32 evaluations, ‘provisions’ are the *“policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change”*.

The proposed management approach for ‘Activities on the Surface of water’ chapter includes policies that:

- Enable the non-commercial recreational use of rivers and lakes where it will not result in a significant adverse effect on the associated values of the waterbody or the environment.
- Provides for land use on and around rivers and lakes where there is a functional need, it is consistent with the characteristics of the waterbody and does not exacerbate a natural hazard.
- Recognise tangata whenua’s relationship with freshwater bodies.

The proposed management approach for the ‘Activities on the Surface of water’ chapter includes rules and standards that:

- Enable the use of non-motorised craft on all the District’s rivers and lakes for non-commercial recreation use and customary activities.
- Provide for the use of motorised craft on all of the District’s rivers and lakes for non-commercial recreation use where the activity does not occur on an explicitly listed water body.
- Enable search and rescue, scientific investigations, noxious flora and fauna control, maintenance of the habitat of indigenous fauna, or monitoring; and irrigation network maintenance on Waingaro and Manuwai Reservoirs.
- Apply discretionary activity status to structures, commercial activities and residential activities on the surface of the District’s rivers and lakes.
- Any activity which is not provided for as a permitted or discretionary activity is a non-complying activity.

5.3.3 Responding to advice from iwi authorities

Section 32(4A) of the RMA requires evaluation reports to summarise advice received from iwi authorities on a proposed plan and the response to that advice, including any provisions that are intended to give effect to the advice. Section 4.3.2 of this report provides a summary of advice received from iwi authorities on the ‘Activities on the Surface of Water’ chapter.

Te Runanga O Ngāti Rēhia provided feedback on the Draft District Plan ‘Activities on the Surface of Water’ chapter, which it supported in principle. It requested a minor suggestion to fix a spelling error in the provisions, in which an amendment has been made in response.

Te Runanga o Te Rarawa provided feedback on the Draft District Plan ‘Activities on the Surface of Water’ chapter as summarised below:

- The authority supported Policy ASW-P3 recognising tangata whenua’s relationship and cultural practices associated with the District’s freshwater bodies. The policy is to be retained, with insertion of a new permitted activity rule for customary activities to support the policy. The authority sought that the objective should explicitly account for Te Mana o Te Wai as set out in the NPSFM. The NPSFM has been considered as part of the ‘Activities on the Surface of Water’ chapter in the Draft District Plan as far as it is relevant to Far North District Council’s jurisdictions. To ensure consistency, the objective includes consideration of the core values for ensuring the health and well-being of the District’s freshwater bodies is protected (including ecological and cultural values). As such, the objective and policy framework are considered to be consistent with the NPS-FM concept of Te Mana o Te Wai.

6 Approach to Evaluation

6.1 Introduction

The overarching purpose of section 32 of the RMA is to ensure that all proposed statements, standards, regulations, plans or changes are robust, evidence-based and are the most appropriate, efficient and effective means to achieve the purpose of the RMA. At a broad level, section 32 requires evaluation reports to:

- Examine whether the objectives in the proposal are the most appropriate to achieve the purpose of the RMA.
- Examine whether the provisions are the most appropriate way to achieve the objectives through identifying reasonably practicable options and assessing the efficiency and effectiveness of the provisions, including an assessment of environmental, economic, social and cultural economic benefits and costs.

These steps are important to ensure transparent and robust decision-making and to ensure stakeholders and decision-makers can understand the rationale for the proposal. There are also requirements in section 32(4A) of the RMA to summarise advice received from iwi authorities on the proposal and the response to that advice through the provisions.

6.2 Evaluation of scale and significance

Section 32(1)(c) of the RMA requires that evaluation reports contain a level of detail that corresponds with the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal. This step is important as it determines the level of detail required in the evaluation of objectives and provisions so that it is focused on key changes from the status quo.

The scale and significance of the environmental, economic, social and cultural effects of the provisions for the 'Activities on the surface of water' topic is evaluated in the table below.

Criteria	Comment	Assessment
Raises any principles of the Treaty of Waitangi	The principles of partnership, participation and protection have been taken into consideration in the drafting of the PDP provisions. Activities on the surface of the District's rivers and lakes have the potential to generate adverse environmental and cultural effects. The potential for this has been reduced due to the inclusion of provisions explicitly recognising tangata whenua's relationship with freshwater bodies.	Low
Degree of change from the Operative District Plan	Activities on the surface of water will be provided for in the PDP in a standalone chapter in the General District-Wide Matters section, consistent with the Planning Standards. The provisions are largely a rollover of the ODP approach with additional policies and rules relevant to the topic as appropriate. As noted, noise standards are now located in a separate chapter as to also align with the Planning Standards and discretionary activity status has been applied to structures, commercial activities and residential activities on the surface of water.	Low

Criteria	Comment	Assessment
Effects on matters of national importance	Section 6(a) of the RMA requires Council to preserve the natural character of wetlands, lakes, rivers and their margins. The activities on the surface of water provisions mostly roll over the ODP approach, therefore effects on natural character are considered to remain low. Other chapters of relevance under the Natural Environment Values section of the PDP will also ensure the further protection and management of the District's freshwater bodies is achieved.	Low
Scale of effects – geographically (local, district wide, regional, national).	The proposed provisions will apply to the District's rivers and lakes. The PDP approach mostly rolls over the ODP approach with some additional policy direction, and rules for structures, commercial activities and residential activities on the surface of water. The scale of effects is not likely to be any greater than that in the ODP.	Low
Scale of people affected – current and future generations (how many will be affected – single landowners, multiple landowners, neighbourhoods, the public generally, future generations?).	The scale of people potentially affected by the proposed changes will generally be limited to those undertaking activities on the surface of water. These people are currently affected by the ODP in a similar way so there will be minimal changes.	Low
Scale of effects on those with specific interests, e.g., Tangata Whenua	As highlighted above, the activities on the surface of water provisions mostly roll over the ODP approach and seek in part to protect and enhance the values of these waterbodies. The changes proposed will likely be of interest to the same people (as mentioned above) as well as tangata whenua.	Low
Degree of policy risk – does it involve effects that have been considered implicitly or explicitly by higher order documents? Does it involve effects addressed by other standards/commonly accepted best practice?	Overall, the PDP approach is consistent with the Planning Standards and RPS, with many of the changes attributed to consequential format, structure and definition changes.	Low

6.3 Summary of scale and significance assessment

Overall, the scale and significance of the effects from the proposal is assessed as being low. Consequently, a low level of detail is appropriate for the evaluation of the objective and provisions for the 'Activities on the Surface of Water' chapter in accordance with section 32(1)(c) of the RMA. This evaluation focuses on key changes in the proposed management approach from the ODP – minor changes to provisions for clarification and to reflect new national and regional policy direction are not included in the evaluation in section 7 and 8 below.

7 Evaluation of Objectives

Section 32(1)(a) of the RMA requires that the evaluation report examine the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA. The assessment of the appropriateness of the objectives for the 'Activities on the Surface of Water' chapter is against four criteria to test different aspects of 'appropriateness' as outlined below.

Criteria	Assessment
Relevance	<ul style="list-style-type: none"> Is the objective directly related to a resource management issue? Is the objective focused on achieving the purpose of the RMA?
Usefulness	<ul style="list-style-type: none"> Will the objective help Council carry out its RMA functions? Does the objective provide clear direction to decision-makers?
Reasonableness	<ul style="list-style-type: none"> Can the objective be achieved without imposing unjustified high costs on Council, tangata whenua, stakeholders and the wider community?
Achievability	<ul style="list-style-type: none"> Can the objective be achieved by those responsible for implementation?

Section 32 of the RMA encourages a holistic approach to assessing objectives rather than necessarily looking at each objective individually. This recognises that the objectives of a proposal generally work interdependently to achieve the purpose of the RMA. The ODP has multiple objectives where those of relevance to the topic have been grouped in the evaluation below. The PDP proposes only one objective for the 'Activities on the Surface of Water' chapter.

7.1 Evaluation of existing objectives

<p>Objective(s): 12.7.3.4 To provide for the use of the surface of lakes and rivers to the extent that this is compatible with the maintenance of the life supporting capacity of the water body, water quality, aquatic habitats, and the protection of natural character, amenity, cultural heritage, landscape and spiritual values.</p> <p>12.7.3.5 To avoid adverse effects from inappropriate use and development on lakes and rivers.</p>	
Relevance	These objectives are relevant in that they provide for the use and development of the District's rivers and lakes but only where it is carried out in a manner that recognises and protects the values associated with the water bodies.
Usefulness	The objectives provide direction with respect to development to achieve the intended purpose of the chapter.
Reasonableness	Costs associated with implementation will be generated by the requirement to apply for resource consent (on any future developer) and monitoring (on Council). The proposed objectives therefore do not result in any unjustifiable costs on individuals or businesses operating on or around the District's rivers and lakes.
Achievability	The objectives and associated provisions are somewhat achievable. A limited range of policies and rules such as specific provision or control for commercial activities on the surface of water has the potential to affect the achievability of the objectives.
<p><u>Overall evaluation</u></p> <p>The intent of these objectives is appropriate albeit they are repetitive and address topics that will be located in separate chapters of the PDP. They also do not explain the associated values that need to be protected, or the types of activities that may be considered appropriate or inappropriate.</p>	

7.2 Evaluation of proposed objectives

<p>Objective:</p> <p>ASW-O1 Activities on the surface of water are managed in a way that protects and enhances the ecological, recreation, natural character, amenity and cultural values of the District's rivers and lakes for current and future generations.</p>	
<p>Relevance</p>	<p>This objective makes the intent and outcomes clear in terms of what the chapter is seeking to achieve. In doing so, the objective recognises and provides for activities on the surface of water given they protect and enhance the associated values of the District's waterbodies.</p>
<p>Usefulness</p>	<p>The objective provides clear direction in terms of the intended purpose of the chapter and will give effect to the RPS in terms of identifying the associated values which need to be protected and that non-commercial recreational activities are considered to be appropriate.</p>
<p>Reasonableness</p>	<p>Costs associated with implementation will be generated by the requirement to apply for resource consent (for applicants) and monitoring (on Council). The proposed objective therefore does not result in any unjustifiable costs on individuals or businesses operating on or around the District's rivers and lakes.</p>
<p>Achievability</p>	<p>The objective and associated provisions are achievable. The objective clearly identifies what values are to be protected while the provisions set out what activities are permitted and those which require consent.</p>
<p><u>Overall evaluation</u></p> <p>The proposed objective seeks to address the resource management issues relevant to activities on the surface of water. It does so by setting out what the chapter is aiming to achieve by providing for activities in a way which ensures the associated values of the District's freshwater bodies are protected. It also clearly sets out the values which are to be protected and what activities are considered appropriate which gives effect to higher order policy documents. The proposed objective is better aligned with the RPS, Planning Standards and Part 2 of the RMA.</p>	

8 Evaluation of Provisions to Achieve the Objectives

8.1 Introduction

Section 32(1)(b) of the RMA requires the evaluation report to examine whether the provisions are the most appropriate way to achieve the objectives by:

- (i) *identifying other reasonably practicable options for achieving the objectives; and*
- (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
- (iii) *summarising the reasons for deciding on the provisions.*

When assessing the efficiency and effectiveness of the provisions in achieving the objectives, section 32(2) of the RMA requires that the assessment:

- (a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
 - (i) *economic growth that are anticipated to be provided or reduced; and*
 - (ii) *employment that are anticipated to be provided or reduced; and*
- (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

This section provides an assessment of reasonably practicable options and associated provisions (policies, rules and standards) for achieving the objective in accordance with these requirements. This assessment of options is focused on the key changes from the status quo as outlined in 5.2 of this report.

Each option is assessed in terms of the benefits, costs, and effectiveness and efficiency of the provisions, along with the risks of not acting or acting when information is uncertain or insufficient. For the purposes of this assessment:

- **effectiveness** assesses how successful the provisions are likely to be in achieving the objectives and addressing the identified issues.
- **efficiency** measures whether the provisions will be likely to achieve the objectives at the least cost or highest net benefit to society.

The sections below provide an assessment of options (and associated provisions) for achieving the objectives in accordance with sections 32(1)(b) and 32(2) of the RMA.

8.2 Quantification of benefits and costs

Section 32(2)(b) of the RMA requires that, where practicable, the benefits and costs (environmental, economic, social and cultural) of a proposal are quantified. The requirement to quantify benefits and costs if practicable recognises it is often difficult and, in some cases, inappropriate to quantify certain costs and benefits through section 32 evaluations, particularly those relating to non-market values.

As discussed in section 6.2, the scale and significance of the effects of proposed changes for the 'Activities on the Surface of Water' chapter are assessed as being low. Therefore, exact quantification of the benefits and costs of the different options to achieve the objective is not considered to be necessary or practicable for this topic. Rather this evaluation focuses on providing a qualitative assessment of the environmental, economic, social and cultural benefits and costs anticipated from the provisions with some indicative quantitative benefits and costs provided where practicable.

8.3 Evaluation of options

8.3.1 Option 1: Status quo

<i>Option 1: The status quo, where the chapter includes provisions that control the use and development of the coastal environment, wetlands, lakes and rivers, public access and activities on the surface of water.</i>		
Benefits	Costs	Risk of acting / not acting
<ul style="list-style-type: none"> • The public and practitioners are familiar with the provisions in the ODP applied to the coastal environment, wetlands, lakes and rivers. • The chapter would control matters or topics that overlap in regard to the preservation and protection of the district water resources. • Specific provisions for motorised craft and noise standards for activities on the surface of water provide a level of protection for the District's rivers and lakes and nearby properties. • More enabling approach to all activities on surface of water with reduced costs associated with resource consent and monitoring processes. 	<ul style="list-style-type: none"> • Lack of control over commercial activities, residential activities and structures may generate adverse effects on the values of waterbodies. • The PDP is instructed through the Planning Standards to control public access, activities on the surface of water, the coastal environment and noise separately in the PDP. • There would be duplication of provisions as a result of controlling public access, activities on the surface of water, the coastal environment and noise in the same chapter. • A broad policy direction, lacking specificity (with potential for differing interpretations) and associated provisions may not achieve the objectives. 	<ul style="list-style-type: none"> • The risk of this approach is that it is not consistent with the Planning Standards and may cause confusion with the duplication of provisions. • The risk of this approach is the broad policy and provision direction aimed at multiple matters or topics would not adequately manage the resource management issues of particular relevance to activities on the surface of water.
<p><u>Effectiveness</u></p> <ul style="list-style-type: none"> • Retaining the existing approach would not achieve alignment with the Planning Standards. In addition, by having one chapter to address activities on the surface of water, improves usability of the PDP leading to more effective implementation of the provisions. 	<p><u>Efficiency</u></p> <ul style="list-style-type: none"> • Option 1 is not considered to be the most efficient approach. The PDP is required to have individual chapters for public access, activities on the surface of water, the coastal environment and noise. Including all of these topics in the one chapter has the potential for confusion and duplication. 	
<p><u>Overall evaluation</u></p> <p>On balance this option is not considered to be the most appropriate option to achieve the objective because:</p> <ul style="list-style-type: none"> • It is not the most efficient way to achieve the desired outcomes and manage activities on the surface of waterbodies. • Grouping matters and topics in one chapter under a broader policy direction could cause duplication and confusion and risks objectives for specific matters not being achievable. • Policy direction is limited in that it does not clearly identify the values of waterbodies, it lacks specificity with respect to 'enabling' appropriate activities on the 		

surface of water and recognising tangata whenua’s relationship with fresh waterbodies.

8.3.2 Option 2: Activities on the Surface of Water chapter – Proposed approach

Option 2: Apply an ‘Activities on the surface of water’ chapter protecting the associated values of rivers and lakes from activities on the surface of water in the General District-Wide Matters section of the PDP.

The approach retains the majority of the ODP provisions in relation to activities on the surface of water while adding additional policy and rules to create a stronger policy direction for the topic and to better align with the Planning Standards. This includes containing provisions in relation to activities on the surface of water and noise in standalone chapters in the PDP, and new discretionary activity rules for structures, commercial activities and residential activities on the surface of waterbodies.

Benefits	Costs	Risk of acting / not acting
<ul style="list-style-type: none"> • The approach aligns with the direction given by the Planning Standards. • Benefit may arise through a more simplified and concise approach to the control of activities on the surface of water. • More specificity in terms of what activities can be undertaken on rivers and lakes which aligns with the hybrid PDP approach. • Greater regulation of structures, commercial activities and residential activities on the surface of waterbodies to manage potential environmental effects on the values of waterbodies. • Additional provisions and an update in wording to include ‘non-commercial recreational use’ provides a stronger policy direction for the topic and clarifies the intent, meaning the objective is more likely to be achieved. 	<ul style="list-style-type: none"> • The public and practitioners are not familiar with the method for controlling activities on the surface of water. • Higher costs for applicants seeking to establish structures or commercial activities on the surface of waterbodies. 	<p>There is low risk associated with Option 2 as:</p> <ul style="list-style-type: none"> • The PDP approach is consistent with the Planning Standards. • A stronger, more detailed policy direction through additional provisions and an update in wording is more likely to achieve the objective of the chapter. • The approach is consistent with the approach taken in other similar second-generation District Plans.

<p>Effectiveness</p> <ul style="list-style-type: none"> The proposed provisions are effective as they recognise and provide appropriate protection of the associated values of rivers and lakes from activities on the surface of water. The provisions provide a stronger policy direction in terms of additional policies and rules outlining what activities are appropriate or need resource consent on the surface of water to manage their potential effects. This approach therefore offers increased clarity and certainty for plan users and is more likely to achieve the objective than Option 1. 	<p>Efficiency</p> <ul style="list-style-type: none"> The proposed option is an efficient method of achieving the proposed objective for the 'Activities on the Surface of Water' chapter. The costs associated with resource consents for certain activities are reasonable and proportionate to the potential environmental effects that may be generated from activities on the surface of water.
<p>Overall evaluation</p> <p>On balance this option is considered to be the most appropriate option to achieve the objective because:</p> <ul style="list-style-type: none"> The proposed provisions comply with the Planning Standards. The proposed provisions are concise by only addressing activities on the surface of rivers and lakes. The approach is consistent with the 'hybrid' PDP approach. The approach provides a stronger policy direction for what the PDP is trying to achieve in regard to activities on the surface of water. The approach gives effect to and is better aligned with the direction of the RPS. 	

8.3.3 Option 3: Activities on the Surface of Water chapter – Stronger regulatory approach

Option 3: Apply more stringent rules restricting land use activity on or adjacent to the surface of rivers and lakes including the use of more restrictive activity status and greater regulation of non-commercial recreational activities through the consenting process.

Benefits	Costs	Risk of acting / not acting
<ul style="list-style-type: none"> Greater regulation of activities has the potential to further reduce adverse effects on the District's rivers and lakes. Council would have more control over the type of activities undertaken on or adjacent to freshwater bodies. 	<ul style="list-style-type: none"> Economic implications for the wider community and tangata whenua if resource consent is required for most or all activities on the surface of water The wider community and tangata whenua may be unable to adequately provide for their social and cultural wellbeing. More Council resources required for consent processing and monitoring purposes. 	<ul style="list-style-type: none"> The risk of this approach is the purpose of the RMA is not achieved because the costs of the approach outweigh the benefit (i.e. the approach could be considered to be unjust).

Effectiveness

- The approach is not effective as the associated costs of requiring resource consent for the non-commercial recreational use of freshwater bodies cannot be justified. The cost would unnecessarily restrict the wider community and tangata whenua who use the District’s rivers and lakes to provide for their social and cultural wellbeing through recreational activities. In this instance, the cultural and social effects outweigh the economic effects.

Efficiency

- The proposed option is not an efficient method of achieving the proposed objective for activities on the surface of water.

Overall evaluation

This approach is not considered to be the most appropriate option to achieve the objective because:

- The costs of the approach outweigh the potential benefits as greater regulation of recreational activities is not justified.
- There are disproportionate economic implications for both Council, the wider community and tangata whenua.

9 Summary

An evaluation of the proposed objective and provisions for the 'Activities on the Surface of water' chapter has been carried out in accordance with section 32 of the RMA. This evaluation has concluded that the objective is the most appropriate way to achieve the purpose of the RMA and the provisions are the most appropriate way to achieve the objective for the following reasons:

- The 'Activities on the Surface of Water' chapter gives effect to Part 2 of the RMA, the National Planning Standards, the National Policy Statement for Freshwater Management and the Regional Policy Statement policy direction.
- The PDP provisions include an objective, policies and rules that will provide for activities on the surface of waterbodies in a way which ensures that the values of waterbodies are protected or enhanced.
- Where compliance cannot be achieved, resource consent as a discretionary or non-complying activity is required. This will ensure a suitable level of scrutiny can be applied when resource consent is sought for activities to manage potential adverse effects.

Overall, it is considered that the proposed provisions are the most appropriate given that the benefits outweigh the costs, and there are considerable efficiencies to be gained from adopting the preferred provisions.